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EXAMINER

GUIDOTTI, LAURA COLE

ART UNIT

PAPER NUMBER

1744

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/541,836	Applicant(s) JIMENEZ, EDUARDO	
	Examiner Laura C. Guidotti	Art Unit 1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 July 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>07122005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 6 and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 6 recites the limitation "*the appearance of the underlying cover*" in Lines 2-

3. There is insufficient antecedent basis for this limitation in the claim.

Claim 22 recites the limitation "*the entire area of the outer ends*" in Line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-2, 6-7, and 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Abraham, US 2003/0019063.

Abraham discloses the claimed invention including a toothbrush (10) comprising a handle (14), a head mounted to one end of the handle (16), cleaning elements extending outwardly from the head (20), a cover (18) extending beyond the periphery of at least a portion of cleaning element on the toothbrush head (see Figures 1, 8), a mounting structure detachably securing the cover to the toothbrush (via snap fit, paragraph 25), and at least one interchangeable decorative overlay detachably connected to the cover (Figure 2 26; objects, pictures, or photographs, see paragraphs 26-27). Regarding claim 2, the mounting structure includes flexible U-shaped flanges on the cover that are dimensioned to engage at least the head or handle when the cover is placed on the toothbrush (the U-shaped flanges are the inner surfaces of 30 as shown in Figure 1 that engages toothbrush body 12, see also paragraph 25). Regarding claims 6-7, the decorative overlay is complemented by the appearance of the underlying cover (Figure 2) and the cover has decorative features complementing the features of the overlay (Figure 2). Regarding claim 10, a plurality of overlays that are capable of being detachably connected to the cover (paragraph 27) and depending on use a user may be capable of having at least one overlay being mounted between the cover and another overlay (in that a user may be able to insert more than one photograph "overlay" onto the cover, paragraph 27).

3. Claims 1, 3, and 5-7 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 11-332654 (see attached English translation of Detailed Description).

JP 11-332654 discloses the claimed invention including a toothbrush (Figure 1) comprising a handle (unlabeled, Figure 1), a head mounted to one end of the handle

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(unlabeled, Figure 1), cleaning elements extending outwardly from the head (3), a cover (1) extending beyond the periphery of at least a portion of cleaning element on the toothbrush head (see Figure 1), a mounting structure detachably securing the cover to the toothbrush (paragraph 11 of English translation), and at least one interchangeable decorative overlay detachably connected to the cover (2; paragraphs 13-14 of English translation). Regarding claim 3, mating male and female connections on the cover and decorative overlay detachably connect the decorative overlay to the cover (5, 6, 7; see Figures; paragraphs 12-15, 20). Regarding claim 5, there are multiple depressions (such as 6, 7, see Figure 2) that would be capable of receiving and holding mating hemispherical surfaces to connect the decorative overlay to the cover (as the depressions are circular, therefore capable of receiving and holding two hemispherical surfaces). Regarding claims 6-7, the decorative overlay is complemented by the appearance of the underlying cover (see Figures) and the cover has decorative features complementing the features of the overlay (see Figures).

4. Claims 11-13 and 17-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Wexler, US 3,280,417.

Wexler discloses the claimed invention including a toothbrush (31) comprising a handle (34), a head (30) mounted to one end of the handle (Figure 1), the head having a front face (where 36 extend from as shown in Figure 2) and a rear face (opposite face on 28 from which 36 extend as shown in Figure 2), the head having opposite side walls (25) and an intermediate end wall connecting the front face to the rear face (26), cleaning elements mounted to and extending outwardly of the front face (36), a cover

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made of shape retaining material (10), mounting structure detachable securing the cover to the head on the front face side of the head (mounting structure is frictional engagement with groove 20 of cover, Column 1 Lines 65-68), and the cover extending outwardly of the cleaning elements beyond the outer periphery of the cleaning elements and out of pressing contact with the cleaning elements (Figure 2). Regarding claim 12, the cover is mounted to the head as to permit air flow and air circulation through the cleaning elements (P; Column 2 Lines 2-6). Regarding claim 13, the cleaning elements are bristles (36) and the cover is spaced from and out of contact with the bristles (as shown in Figure 2). Regarding claim 17, the cover includes side flanges (14, 16) extending outwardly from each side of the cover to create a generally U-shaped structure (see Figures 3 and 5). Regarding claim 18, the cover is open at both axially longitudinal ends to create an open tunnel between the side flanges (open at 39 and 40). Regarding claim 19, there is an end flange at its end remote from the handle (18), and the cover being open at its end near the handle (as it is open at 39). Regarding claim 20, the mounting structure includes projections on the side flanges (pointed ends of 22, shown in Figure 3, are the projections) engaged in openings in the side walls of the head (the openings are the spaces formed around the convex shape of 25).

5. Claims 11-13, 17-18, and 20-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Andrews, US 5,048,144.

Andrews discloses the claimed invention including a toothbrush (10) comprising a handle (13), a head (11) mounted to one end of the handle (Figure 1), the head having a front face (where 14 extend from as shown in Figure 1) and a rear face

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(opposite face from which 14 extend as shown in Figure 1), the head having opposite side walls (unlabeled in many embodiments, also where 26 is located in Figure 3) and an intermediate end wall connecting the front face to the rear face (unlabeled, see Figures), cleaning elements mounted to and extending outwardly of the front face (14; Column 2 Lines 59-60), a cover made of shape retaining material (20, 27, 35, 40, or 50), mounting structure detachably securing the cover to the head on the front face side of the head (mounting structure is 23, 26, 30, 37, 48, or 57), and the cover extending outwardly of the cleaning elements beyond the outer periphery of the cleaning elements and out of pressing contact with the cleaning elements (best shown in Figures 2-4).

Regarding claim 12, the cover is mounted to the head as to permit air flow and air circulation through the cleaning elements (as the ends of the cover are open and capable of permitting air flow). Regarding claim 13, the cleaning elements are bristles (Column 2 Lines 59-60) and the cover is spaced from and out of contact with the bristles (as shown in Figures 2 and 4). Regarding claim 17, the cover includes side flanges (22, 29, 36, 42, or 56) extending outwardly from each side of the cover to create a generally U-shaped structure (see Figures). Regarding claim 18, the cover is open at both axially longitudinal ends to create an open tunnel between the side flanges (as it is open in the embodiments shown in Figures 1-6). Regarding claim 20, the mounting structure includes projections on the side flanges (ends of 23, 30, 37, 48) engaged in openings in the side walls of the head (26). Regarding claim 21, the cover includes an end flange at its end remote from the handle (43) and a second end flange at its end disposed toward the handle (44), and the cover including air holes to permit air circulation through he

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cleaning elements (through 45). Regarding claim 22, the cover is of a size to completely cover the entire area of the outer ends of cleaning elements (best shown in Figures 1-4), the cover being disposed to extend no further than the walls of the head whereby the cover does not extend to the rear face (as shown in the embodiments of Figures 1-6).

6. Claims 11-13, 15-16, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Reid, US 6,244,777.

Reid discloses the claimed invention including a toothbrush (10) comprising a handle (12), a head (portion having bristles 22) mounted to one end of the handle (Figure 1), the head having a front face (where 22 extend from as shown in Figure 1) and a rear face (opposite face from which 22 extend as shown in Figure 1), the head having opposite side walls (unlabeled) and an intermediate end wall connecting the front face to the rear face (unlabeled, see Figures), cleaning elements mounted to and extending outwardly of the front face (22), a cover made of shape retaining material (30), mounting structure detachably securing the cover to the head on the front face side of the head (mounting structure is 32, 52), and the cover extending outwardly of the cleaning elements beyond the outer periphery of the cleaning elements and out of pressing contact with the cleaning elements (see Figures 1-2). Regarding claim 12, the cover is mounted to the head as to permit air flow and air circulation through the cleaning elements (as there are no sides, therefore the cover is capable of permitting air flow and air circulation through the cleaning elements). Regarding claim 13, the cleaning elements are bristles (22; Column 2 Line 20) and the cover is capable of being

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spaced from and out of contact with the bristles (in the condition shown in Figure 2).

Regarding claim 15, the cover is generally planar without any depending walls (see Figures). Regarding claim 16, the mounting structure comprises at least one post extending from the cover (32) and engaged in a corresponding hole in the front face of the head (24; see Figures). Regarding claim 22, the cover is of a size to completely cover the entire area of the outer ends of cleaning elements (Figures 1-3), the cover being disposed to extend no further than the walls of the head whereby the cover does not extend to the rear face (Figures 1-3).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over JP 11-332654 (see attached English translation of Detailed Description) in view of Malm, US 3,327,391.

JP 11-332654 discloses all elements mentioned above, in particular that male and female connections on the cover and decorative overlay detachably connect the decorative overlay to the cover (5, 6, 7), however JP 11-332654 does not disclose that the connections in particular are a ball and socket type of connection.

Ball and socket connections are well known in the art, in particular Malm teaches a ball (52) and socket (50) to snap-fit connect to members (cup 20, ring 22) and is

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shown that this is one of many types of connections capable of attaching two physical members (see embodiments of Figures 1-3 and 5 as well, notably that Figure 1 connection of 28 and 30 are similar to that found in JP 11-332654).

It would have been obvious for one of ordinary skill in the art at the time of the invention to substitute the male and female mounting structure of JP 11-332654 for one that is a ball and socket, as Malm teaches, in order to form a snap-fit removable connection.

8. Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abraham, US 2003/0019063 in view of Wright et al., US 5,590,436.

Abraham discloses all elements previously mentioned above, and further it is particularly noted that Abraham has many embodiments, some of which include a decorative escutcheon that is (in some embodiments detachably) attached to the toothbrush handle and complements the appearance of a cover (Figures 3, 5-7, and 11). Specific to those embodiments, Abraham doesn't include the toothbrush cover having the above-mentioned features in combination with a detachably attached decorative escutcheon. Regarding claim 9, Abraham does recognize a decorative member complementing the appearance of a cover (best shown by Figure 5).

Wright et al. teach a decorative escutcheon (12) that is detachably attached to a toothbrush handle for aesthetic and entertainment benefits (2; see Figures).

It would have been obvious for one of ordinary skill in the art at the time of the invention to modify the handle of Abraham by including a decorative escutcheon that is

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detachably attached to the toothbrush handle, as Wright et al. teach, in order to improve the aesthetic appearance of the toothbrush.

9. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Andrews, US 5,048,144 in view of Bleadon, US 1,904,609.

Andrews discloses all elements previously mentioned above, however does not disclose a visible ornamentation on the cover.

Bleadon teaches a toothbrush cover wherein there is a visible ornamentation on the cover (Page 1 Line 98 to Page 2 Line 4) in the form of advertising indicia.

It would have been obvious for one of ordinary skill in the art at the time of the invention to modify the cover of Andrews so that it include a visible ornamentation, as Bleadon teaches, in order to provide an advertising message to a user.


Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura C. Guidotti whose telephone number is (571) 272-1272. The examiner can normally be reached on Monday-Thursday, 7:30am - 5pm, alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Laura C Guidotti
Patent Examiner
Art Unit 1744

lcg